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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

JUL 22 1997

Reply To
Attn Of: ECO-088

James L. Caswell
Forest Supervisor
Clearwater National Forest
12730 U.S. Highway 12
Orofino, Idaho 83544

Re: North Lochsa Face Draft Environmental Impact Statement

Dear Mr. Caswell:

In accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act, the Environmental Protection Agency (EPA) has reviewed the draft Environmental Impact Statement (EIS) for the North Lochsa Face Landscape and Watershed Assessment. The draft EIS analyzes five alternative actions (including no action) to address land use plans in the Lochsa Ranger District of the Clearwater National Forest, located in Idaho County, Idaho.

Based on our review, we have rated the draft EIS EC-2 (Environmental Concerns --Insufficient Information). Our concerns are based primarily on air quality concerns due to burning, potential impacts to riparian areas resulting from activities in the analysis area, and potential impacts in the Wild and Scenic River corridor. Detailed comments on these points are enclosed.

The EPA appreciates the opportunity to review this draft EIS. This rating and a summary of EPA's comments will be published in the *Federal Register*. A copy of our rating system has been enclosed to this letter for your reference. If you have any questions about our comments, please contact me at (206) 553-8574.

Sincerely,

Richard B. Parkin

Richard B. Parkin
Geographic Implementation Unit

Environmental Protection Agency
Detailed Comments on the North Lochsa Face Landscape and Watershed Assessment
Draft Environmental Impact Statement

Air Quality

The action alternatives in the draft EIS include prescribed/slash burning. This raises numerous air quality issues which require further attention in the final EIS. The EIS should describe meteorological conditions and existing air quality using specific data applicable to the project site. The North Lochsa Face analysis area has been designated a Class II area under the Clean Air Act.[1]

The draft EIS identifies the Selway-Bitterroot Wilderness as requiring special visibility protection and air quality standards resulting from its Class I status under the Clean Air Act. (*Draft EIS, chapter three-30.*) Table 3.14 on the next page of the draft EIS indicates that the Selway-Bitterroot Wilderness is 3 air miles east of the analysis area, and that there is "significant human occupation" in that wilderness from May through November. The draft EIS also indicates that "[e]ffects on the Selway-Bitterroot Wilderness are very unlikely, due to the distance from the burn areas and the normal weather patterns that would transport smoke away from the Wilderness." (*Draft EIS, chapter four-32.*) The final EIS should explain with greater specificity why the air quality in the nearby Selway-Bitterroot Wilderness will not be impacted by prescribed/slash burning in the Lochsa region, in spite of its proximity to the analysis area.

The draft EIS cites participation in the North Idaho Smoke Management Agreement (Agreement) as a factor limiting air quality impacts resulting from burning. (In fact, the draft EIS specifically sites the procedures included in the Agreement as a means of protecting Selway-Bitterroot Wilderness air quality.) However, the monitoring procedures prescribed by the North Idaho Smoke Management Memorandum of Agreement are only implemented during the months of September through November. The draft EIS implies reliance on "burning during spring and early summer months when smoke dispersion is more favorable" as a tactic to mitigate associated air pollution. (*Draft EIS, chapter three-30.*) The final EIS should clarify if/how participation in the Agreement provides assurance that smoke impacts will be minimized during these spring and early summer periods. If participation in the Agreement does not mitigate air quality impacts during these periods, the final EIS should specify other actions which do so.

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1 Under the 1977 amendments to the Clean Air Act, international parks and national parks meeting certain size criteria were required to be classified as Class I areas, which have the most stringent air quality standards in place. All other areas under the amendments' plan for Prevention of Significant Deterioration (except those designated Class I under the pre-'77 EPA regulations) were designated Class II. Certain of these can only be upgraded to Class I. Class II areas are required to meet certain air quality standards; for example, see 42 USC §7473 increments and ceilings. For further information, see Robert L. Glicksman, *Pollution on the Federal Lands I: Air Pollution Law*. 12 U.C.L.A. ENVTL. L. & POL'Y (1993).

The action alternatives outlined in the draft EIS will require slash burning of fuel associated with harvest activities. The final EIS should discuss methods which will be utilized to minimize or eliminate smoke emissions from this type of burning. Moreover, the final EIS should outline the air quality impacts due to such factors as machinery emissions and suspended particulate matter resulting from harvest activity and related road construction/reconstruction/maintenance activity in the analysis area. Measures to minimize these forms of air pollution should be communicated in the final EIS. In addition, the draft EIS does not examine alternatives to slash burning; the final EIS should do so.

Water Quality

It is the goal of the Clean Water Act (CWA), 33 USC §1313, to restore and maintain the chemical, physical and biological integrity of the nation's waters. Executive Order 12088 requires that, among other things, Federal agencies comply with environmental standards established in accordance with the Clean Water Act. According to Section 303(d) of the CWA, states are required to identify those waters for which effluent limitations set under the CWA are not stringent enough to assure that the waters meet the applicable water quality standards. The state also prioritizes the waters based on the severity of the pollution and the anticipated uses of the waters. This is the state's "303(d) list."[2] States then are to set the total maximum daily load (TMDL) for pollutants for each listed water. The TMDL must be rigorous enough to "implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality." 33 USC §1313(d)(1)(C). The final EIS should demonstrate that the project will comply with existing TMDLs. If the state has not yet promulgated TMDLs for stream segments in question, the final EIS should provide a quantitative basis to judge whether physical and chemical parameters, such as temperature, turbidity, and sediment accumulation, will be kept at levels that will protect and fully support designated uses and meet Water Quality Standards under each of the action alternatives; the final EIS must clearly demonstrate that project implementations will comply with state Water Quality Standards. In addition, many water bodies will be listed under §303(d) in the future. According to the CWA, any 303(d) determination must be complied with, even those made after an action has begun. The EPA stresses that activity which pollutes, degrades, or does not contribute to the restoration of a 303(d) listed water is impermissible.

The federal regulations for implementation of the Clean Water Act require an antidegradation policy. 40 CFR § 131.12. The Idaho general water quality standard and antidegradation policy is codified at 39-3601 Idaho code, *et seq*. It states:

The existing instream beneficial uses of each water body and the level of water quality

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[2] Rivers listed on the Idaho's 303(d) list include Canyon Creek, Deadman Creek, Glade Creek, Pete King Creek and the Lochsa River. All 303(d) designations should be documented in the final EIS; the state's identification of water bodies with impaired uses (listed in the state's 303(d) report), as well as the magnitude and sources of such impairment, should be included.

> necessary to protect those uses shall be maintained and protected. Where the quality of waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of this chapter, and the department's planning processes, along with appropriate planning processes of other agencies, that lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such reductions in water quality, the department shall assure water quality adequate to protect existing uses fully.

39-3609 Idaho Code. Harvest activity under the proposed action alternatives would be considered new nonpoint source activity as defined in 39-3602 Idaho Code:

> (13) "New nonpoint source activity" means a new nonpoint source activity or a substantially modified existing nonpoint source activity on or adversely affecting an outstanding resource water which includes, but is not limited to, new silvicultural activities...It does not include naturally occurring events such as floods, landslides, and wildfire including prescribed natural fire.

39-3602(13) Idaho Code. The Idaho Code outlines restriction provisions for new nonpoint source activities on outstanding resource waters:

> No person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of an outstanding resource water, except for short-term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, issuance of water rights permits or licenses, allocation of rights, or operation of water diversions or impoundments.

39-3618 Idaho Code. The Lochsa River, as a designated recreational river under the National Wild and Scenic Rivers Act (WSRA), 16 USC § 1271 *et seq.*, is therefore an "Outstanding resource water" under Idaho law stating that any

> water of exceptional recreational or ecological significance, which has been so designated by the legislature...constitutes an outstanding national or state resource that requires protection from point source and nonpoint source activities that may lower water quality.

39-3602(16). In addition, 39-3611 Idaho Code outlines the requirements for development and implementation of TMDLs (or equivalent process) for both point and non-point sources. The final EIS should reconcile any action alternatives which might impact the Lochsa River with state criteria under Idaho's anti-degradation policy.

Sedimentation is the pollutant for which Glade Creek, Canyon Creek, Deadman Creek and Pete King Creek are 303(d) listed; vegetation buffers are necessary to protect surface water from impacts resulting from nearby harvest or burning activities. Mitigation measure #1 (*Draft EIS, chapter two-20*) states that no harvest or burning activities will occur within 300 feet of fish-bearing streams, 150 feet of non-fish bearing perennial streams or 50 feet of non-fish bearing intermittent streams. Where alternatives #2 and 3 require road construction and reconstruction, a minimum distance of 600 feet from watercourses will be protected. The final EIS should provide some discussion of the adequacy of these buffers in protecting surface water, especially in areas where slope sediment delivery ratings for landtypes affected by proposed road construction and

other activities are moderate to high. Thoughtful discussion of the adopted buffers in the final EIS will preempt the perception that they are either the mechanical application of generic minimum standards or the arbitrary creation of a standard without proper evaluation of the analysis area. Additionally, the importance of monitoring soil and slope stability in moderate and high risk areas should not be overlooked.

The action alternatives create situations which increase the risk of oil/petroleum spills due to increased timber harvest (alternatives # 2 through 5) and road-building activity (alternatives #2 and 3). (*See Draft EIS chapter four-2.*) The draft EIS cites Best Management Practices (BMPs) and emergency containment measures as the means by which these dangers will be alleviated. The final EIS should specifically discuss which BMPs and response measures would be utilized to counter the danger of such spills. The final EIS should also detail monitoring procedures for the BMPs, potential impacts of possible BMP failure, and any additional or alternative methods of eliminating oil/petroleum spill hazards.

The draft EIS acknowledges that prescribed fires could violate some of the buffers around streambeds. Although the Idaho anti-degradation policy exempts prescribed natural fires from status as "new nonpoint source activity," associated degradation could result from fire in stream buffer zones. Consequently, the final EIS should further explain measures that will be taken to minimize this potentiality as well as discuss the potential impacts and mitigating actions if such an event occurs.

In the "Effects on Fish" section of Chapter Four (Environmental Consequences), the draft EIS states:

> "...WATBAL predicts regeneration harvest would delay recovery in Apgar Creek. However, the small size of the watershed causes the WATBAL estimates to be exaggerated. Professional judgement predicts no delay in recovery, since only 50% of the trees would be removed with the proposed regeneration harvest.

(*Draft EIS, chapter four-2.*) The final EIS should better explain the basis for the professional judgement that there will be no delay in recovery. In other words, is this opinion based on comparisons with other similar watersheds which have been comparably harvested, or is some other criteria used?

Fisheries and Aquatic Resources

The draft EIS identifies bull trout, spring chinook salmon, steelhead trout and westslope cutthroat trout in watercourses in the analysis area; all have been listed as sensitive species by the U.S. Fish and Wildlife Service. All species of western salmonid fish (including those present in the analysis area) have experienced significant cumulative losses in recent years. These losses are primarily due to dams, commercial fishing, poor agriculture and forestry practices, riparian area destruction, road building and rural development. Salmonids have tremendous economic value, but they also play a vital role in aquatic and terrestrial ecosystems. In addition, salmonid health is an important indicator of the physical and biological integrity of aquatic ecosystems associated with our

streams, lakes and wetlands.[3]

It is EPA's policy to focus increased attention on protecting water quality levels that support these fish. It is the EPA's position that Federal projects potentially impacting salmonids should include specific mitigation measures to reduce potential fish impacts. The EPA recognizes the efforts to address water temperature concerns through retention shade via riparian vegetation constituting stream canopy. However, as was mentioned in the comments regarding water quality, the analysis of action alternatives for potential sedimentation lacks specificity. Consequently, the assertion that harvesting and road construction/reconstruction would "cause minimal to no direct or indirect impacts to the natural production of steelhead trout, westslope cutthroat trout, and spring chinook salmon" should be further substantiated in the final EIS.

The draft EIS mentions that under certain circumstances, sediment would need to be removed from Walde Creek. The final EIS should include discussion of the impacts of this process in this and/or (potentially) in other streams or rivers.

Further, it is unclear whether the application of herbicides and/or the mechanical removal of undesirable vegetation will impact riparian habitat and aquatic resources. The draft EIS does not discuss the potential impacts of sedimentation in riparian habitat during the period between the removal of the noxious weeds and the reclamation of the area by indigenous vegetation. The final EIS should address the level of persistence of the herbicides which would be applied; if the herbicides have a high level of persistence, how would mobility in groundwater and soils be controlled? Additionally, the final EIS should examine whether loading, mixing, storage and transport of herbicides will be executed in a manner which will minimize leaks and spills and which will minimize the possibility of residues entering waterways.

Biota - wildlife and vegetation

The draft EIS notes the presence of a variety of threatened, endangered and sensitive species in the analysis area. Table 4.1 (*Draft EIS, chapter four 4-5*) indicates that each action alternative has the potential to impact threatened/sensitive/endangered species present in the analysis area (Alternative #4, which remains out of roadless areas could have a beneficial impact on one species). The final EIS should discuss the nature of the potential impacts on the different species mentioned, and it should disclose the probability of each of the impacts. For example, where the draft EIS states that Alternative #3 may impact the North American Lynx and the Boreal Owl, the reader is not given adequate information to ascertain the potential repercussions of that action

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[3] Additional information about salmonid habitat needs is found in Habitat Requirements of Anadromous Salmonids by D. Reiser and T. Bjorn, United States Forest Service (October 1979, ONW-96), and more recently Bjorn and Reiser (1991), American Fisheries Society Special Publication No. 19, Influences of Forest and Rangeland Management on Salmonid Fishes and Their Habitats. W. Meehan (editor). Please contact Steve Ralph, EPA Aquatic Ecologist at (206)553-4497 if you wish to obtain more salmonid literature and/or a bibliography of additional reading sources.

alternative on those species.[4]

Several of the activities proposed under the action alternatives raise issues relating to vegetation in the analysis area. The final EIS should provide further analysis of the impacts on plant community diversity where indigenous plants are damaged by the application of herbicide, as well as a discussion of mitigation techniques in the impacted areas (for example, will susceptible indigenous species be re-seeded in the application areas). In other words, will an area that might normally have 20 native plant species be reduced to 10 native species after the application of an herbicide eradicates the more sensitive plants in the application area? Action alternatives #2,3, and 5 would implement underburning in coordination with a botanist to mitigate impacts on sensitive plants; the final EIS should indicate at least in general terms the approach to be taken toward these plants (will areas with sensitive vegetation be avoided altogether, will these species be re-seeded after burning, or will some other policy toward these species direct underburning activity). The final EIS also should address potential short-term impacts (if any) which might result from the planting of trees along Pete King and Fish Creeks as well as discussing long-term beneficial impacts.

National Wild and Scenic River (WSR)

The segment of the Lochsa River adjacent to the analysis area is part of a designated recreational river (Middle Fork of the Clearwater Wild and Scenic River Corridor) under the National Wild and Scenic Rivers Act (WSRA), 16 USC § 1271 *et seq.* The designated area (corridor) constitutes 4,105 acres of the analysis area.

In the Clearwater Forest Plan, the United State Forest Service expressed the goals of "protecting and enhancing scenic values, cultural values, water quality, big game, nongame, and fishery habitats," including securing scenic easements to "protect the integrity of the corridor and to meet the intent of the Wild and Scenic Rivers Act." (*Clearwater Forest Plan, III-25.*) The Forest Plan also espouses the goal of harvesting timber "[w]hen **enhancement** of key resources will occur and adverse impacts to key resources would be of low magnitude and short duration, i.e., one growing season or less." (*Clearwater Forest Plan, III-27* (emphasis added).) The final EIS should contain specific commentary about how proposed activities within the Wild and Scenic River corridor do not impinge on these goals as articulated in the Clearwater Forest Plan.

The Wild and Scenic Rivers Act only requires activity within the designated corridor to be "in such a manner as to **protect and enhance** the values which caused [the Lochsa] to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values...[such that] primary emphasis shall be

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[4] For instance, several action alternatives include helicopter logging. Helicopters at 500 feet are comparable to sound levels of heavy trucks and city buses heard from the street. The final EIS should analyze the impacts of the resultant noise such that the reader understands the projected noise levels, the character and duration of noise that could be expected, and the potential impacts on the individual species in the analysis area.

given to protecting its esthetic, scenic, historic, archaeologic, and scientific features." 16 USC § 1278 (emphasis added).

There is no discussion of how timber harvests in the Wild and Scenic River corridor under the North Lochsa Face Watershed Assessment would observe the policies outlined in the Clearwater National Forest Plan and the WSRA. The draft EIS does little more than make the comment that

> [m]aintaining a healthy forest is within the intent of the Wild & Scenic Rivers Act. Proposed treatments would mimic natural disturbances, with large trees remaining on the site. There would be no roads constructed across the scenic landscape.

(*Draft EIS, chapter two - 7.)* This cursory language does not address the applicable restrictions found in the Forest Plan or the WSRA. Nor does it state how timber harvests in the WSR corridor would achieve the specific vegetation management objectives listed in the Forest Plan. Alternatives #2,3 & 5 all appear to call for prescribed burning (and all action alternatives appear to call for harvesting and therefore slash burning) in the WSR corridor. No specific discussion exists which explains to the public how prescribed burning in this area (or any other area, for that matter) will comply with the goals and guidelines laid out in the Clearwater National Forest Plan or the WSRA.

Based on the information provided in the draft EIS, it is unclear how any of the action alternatives protect the integrity of the WSR corridor or how they protect and enhance the values which caused the Lochsa to be designated a Wild and Scenic River. Moreover, in the case of timber harvesting, the draft EIS makes clear neither how key resources will be enhanced nor how adverse impacts to key resources will be either of low magnitude and short duration.

Conclusion

The EPA believes that the final EIS should more fully examine potential air quality impacts due to prescribed burning, slash burning, and other timber harvest activities. The final EIS should disclose the reasoning behind assumptions in the draft EIS regarding potential water quality impacts which may result from activities within the analysis area. This discussion should specifically address impacts on fisheries and riparian areas. The final EIS must address with specificity the potential impacts on sensitive vegetation and threatened/sensitive/endangered species. Moreover, the draft EIS does not adequately reconcile proposed harvesting/burning activities, the Clearwater Forest Plan, and the Wild and Scenic Rivers Act; this deficiency should be rectified in the final EIS.